

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) MICHAEL STONE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-15-944-HE
)	
1. CSAA INSURANCE EXCHANGE,)	
and/or)	
2. CSAA GENERAL INSURANCE)	
COMPANY, and)	
3. ACA INSURANCE COMPANY d/b/a)	
AAA FIRE AND CASUALTY)	
INSURANCE COMPANY,)	
)	
Defendants.)	

NOTICE OF REMOVAL

The Petitioners, CSAA Insurance Exchange, CSAA General Insurance Company, ACA Insurance Company d/b/a AAA Fire and Casualty Insurance Company, Defendants in the above-captioned case, state the following:

1. The above-entitled cause was commenced on April 6, 2015, in the District Court of Oklahoma County, entitled *Michael Stone v. CSAA Insurance Exchange, ACA Insurance Company d/b/a AAA Fire and Casualty Insurance Company, AAA Oklahoma, and Automobile Club of Oklahoma*, Case No. CJ 2015-2056. A copy of Plaintiff's Petition setting forth his claims for relief upon which the action is based is attached hereto and marked Exhibit 1.

2. Plaintiff, Michael Stone, is a resident of Oklahoma County, State of Oklahoma. (Petition, p. 1, ¶ , Ex. 1).

3. Defendant, Automobile Club of Oklahoma, is incorporated in the State of Oklahoma

and has its principal place of business in Oklahoma. Defendant AAA Oklahoma is a d/b/a for Automobile Club of Oklahoma, and is not a separate corporation.

4. Because Automobile Club of Oklahoma and Plaintiff are both residents of Oklahoma, diversity did not exist based on Plaintiff's Petition. Thus, the case stated by the initial pleading was not removable.

5. On August 21, 2015, Plaintiff filed a Dismissal Without Prejudice of Automobile Club of Oklahoma and AAA Oklahoma. (Dismissal Without Prejudice, Ex. 2). On that same date, Plaintiff filed an Amended Petition, naming only the following Defendants: (1) CSAA Insurance Exchange, (2) CSAA General Insurance Company, and (3) ACA Insurance Company, d/b/a AAA Fire and Casualty Insurance Company. (Amended Petition, Ex. 3). In his Amended Petition, Plaintiff seeks damages "in excess of \$75,000." (Amended Petition, p. 9, Ex. 3).

6. CSAA Insurance Exchange, CSAA General Insurance Company, and ACA Insurance Company are incorporated in the State of Indiana, and have their principal places of business in the State of California.

7. Pursuant to 28 U.S.C. § 1446(b)(C)(3), "if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or have become removable." Plaintiff's Dismissal Without Prejudice dismissing the non-diverse Defendants, and Plaintiff's Amended Petition omitting the non-diverse Defendant, constitute "other paper" from which it may first be ascertained that the case is one which has become removable. *See Wade v. Johnson & Johnson*, 54 F.Supp. 1247, 1250 (W.D. 2014) (recognizing dismissal of non-diverse defendants

constitutes “other paper” pursuant to 28 U.S.C. § 1446 (b)(3)); *Mumfrey v. CVS Pharmacy, Inc.*, 719 F.3d 392 (5th Cir. 2013) (recognizing amended petition constitutes “other paper” pursuant to 28 U.S.C. § 1446 (b)(3)).

8. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (1992), by reason of the fact that this is a civil action wherein the amount in controversy, according to Plaintiff’s demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interest and costs and is between citizens of different states. Accordingly, this action may be removed by Defendants pursuant to 28 U.S.C. § 1441(a).

9. This Notice of Removal is filed in this Court within thirty (30) days after August 24, 2015, the date counsel for Defendants received copies of Plaintiff’s Dismissal Without Prejudice and Amended Petition which constitute other paper from which it was ascertained that the case is one which had become removable pursuant to 28 U.S.C. § 1446(b)(C)(3).

5. Copies of all process, pleadings, and Orders served upon Defendants have been attached hereto as follows:

1. Petition, Ex. 1;
2. Dismissal Without Prejudice, Ex. 2;
3. Amended Petition, Ex. 3;
4. Entry of Appearance on Behalf of Plaintiff, Ex. 4; and
5. Defendant, Automobile Club of Oklahoma’s Answer to Plaintiff’s Petition, Ex. 5.

Pursuant to LCvR 81.2, a copy of the state court docket sheet is attached as Exhibit 6.

WHEREFORE, Defendants pray that this action be removed.

Dated this 1st day of September, 2015.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,
BRITTINGHAM, GLADD & FIASCO**

A PROFESSIONAL CORPORATION

/s/ Gregory D. Nellis

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Certificate of Service

I hereby certify that on September 1, 2015, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Michael C. Stone II
Stone Law Firm
1800 Canyon Park Circle, Suite 304
Edmond, OK 73013

/s/ Gregory D. Nellis

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